

"Shirley Forslof" <SForslof@co.whatcom.wa.us>

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To

HAVAInfo@eac.gov

cc

Subject

EAC Maintenance of Effort (MOE)

Dear Commissioners:

Whatcom County in Washington State urges the EAC to adopt Commissioner Hunter's proposal to remove county and local governments from the Maintenance of Effort (MOE) requirement. Our county did not request or receive any HAVA funds that would supplant existing election costs including Title III type activities.

A plain reading of HAVA 254(a)(7) reveals that Congress only intended the MOE requirement to apply to the states. If Congress intended county and local governments to meet the MOE requirement of HAVA, it would have included such language. Any other interpretation requires the EAC to overreach its statutory authority.

Additionally, Section 901 of HAVA does not include units of local government in the definition of "State". Section 901 reads as follows:

"In this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands"

Not until September 2007, did the EAC issue guidance requiring local units of government to establish and maintain MOE. At this late juncture, it is unfair and inappropriate for the EAC to require local units of government to provide MOE, especially since local units of government are not included in the definition of State.

Sincerely,

Shirley Forslof  
Whatcom County Auditor  
311 Grand Avenue, Suite 103  
Bellingham WA 98225  
(360) 676-6744  
e-mail sforslof@co.whatcom.wa.us  
FAX (360) 738-4556

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